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# INDUSTRY CIRCULAR

OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE  
ALCOHOL AND TOBACCO TAX DIVISION



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## TOBACCO REVENUE RULINGS AND REVENUE PROCEDURES

Manufacturers of tobacco products and  
proprietors of export warehouses:

Purpose. The purpose of this industry circular is to call to your attention revised and updated Revenue Rulings and Revenue Procedures relating to tobacco taxes recently published in the Internal Revenue Bulletin and to furnish you "briefs" of such rulings and procedures, together with "briefs" of Revenue Rulings and Revenue Procedures which did not require revision.

Background. In Revenue Procedure 62-24, published in Internal Revenue Cumulative Bulletin 1962-2, page 489, a program was announced for the review of Revenue Rulings and Revenue Procedures issued under Chapter 15 of the Internal Revenue Code of 1939 and Chapter 52 of the Internal Revenue Code of 1954. As a result of this review, 18 Revenue Rulings and 5 Revenue Procedures were revised to bring them up to date and were published in Internal Revenue Bulletin 1964-3, while 57 Revenue Rulings and Revenue Procedures were declared obsolete in Revenue Ruling 62-172, Internal Revenue Cumulative Bulletin 1962-2, page 352. Three Revenue Rulings and 8 Revenue Procedures were unchanged.

Briefs of Revenue Rulings and Revenue Procedures. For your information and guidance, "briefs" of the revised and updated Revenue Rulings and Revenue Procedures, together with "briefs" of the unchanged Revenue Rulings and Revenue Procedures, are set forth in the attachment.

Complete Texts Available for Purchase. The complete texts of revised and updated Revenue Rulings and Revenue Procedures are published in Internal Revenue Bulletin 1964-3, which is available for purchase from the Superintendent of Documents. Single copies of the Bulletin are 20 cents.

Inquiries. Inquiries concerning purchase of the Internal Revenue Bulletin should be addressed to the Superintendent of Documents, Government Printing Office, Washington, D. C. 20402. Other inquiries relative to this industry circular should refer to its number and be addressed to the office of your assistant regional commissioner (alcohol and tobacco tax).

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Attachment

Rev. Rul. 55-20  
C. B. 1955-1, 516

\*\* Determination of retail price of single  
cigar in its principal market.

The principal market of a cigar is the locality in which the bulk of such cigars are sold. If the cigars are sold singly at retail in that locality for more than one price, the tax to be paid shall be based upon the retail price at which the majority of the cigars are there so sold. Where cigars are manufactured or imported to retail in full packages or boxes only, or in lots of two or three cigars, for a certain price and the cigars are not sold in their principal market in any other manner so that there is no ordinary retail price for a single cigar in such market, the price of a single cigar shall be the price of the package or lot divided by the number of cigars therein. (Currently interpretive of Sec. 5701, IRC (1954), and 26 CFR 270.22 and 275.37)

Rev. Rul. 62-64  
C. B. 1962-1, 280

\*\* Multiple trade names.

Where a manufacturer of tobacco products desires to use more than one trade name, the addition of a trade name is a "change in trade name" within the meaning of 26 CFR 270.92. If such trade name is used in connection with his manufacturing operations, the manufacturer is required to make application on Form 2098 for an amended permit in accordance with that section. (Sec. 5712, IRC (1954), and 26 CFR 270.92 and 270.212)

Rev. Rul. 63-143  
I. R. B. 1963-29, 22

\*\* Label or notice on packages of tobacco products  
to be visible.

The label or notice required on packages of tax-exempt tobacco products removed for export (to readily distinguish such packages from packages of taxpaid tobacco products for domestic consumption) cannot be placed inside packages made of nontransparent plastic material where it would not be visible. (Sec. 5723, IRC (1954), and 26 CFR 290.185)

Rev. Rul. 64-11  
I. R. B. 1964-3, 8

\* Filters and mouthpieces on cigars and  
cigarettes.

Where filters and mouthpieces are an integral part of cigars or cigarettes, they must, for Federal tax purposes, be included in the weight of such products. (Sec. 5701 (b) and (c), IRC (1954), and 26 CFR 270.21, 270.23, 275.31, and 275.32) (Supersedes Rev. Rul. 54-316)

Rev. Rul. 64-12  
I. R. B. 1964-3, 8

\* Taxpayment of cigars at same rate whether removed for sale or free distribution.

A manufacturer or importer must taxpay all cigars of the same brand, shape, and size at the same rate, including cigars delivered to salesmen of the manufacturer or importer for free distribution as samples to prospective purchasers. (Sec. 5701 (b), IRC (1954), and 26 CFR 270.21 and 275.31) (Supersedes Rev. Rul. 55-662)

Rev. Rul. 64-13  
I. R. B. 1964-3, 9

\* Large cigars of more than one tax class may be put up in a single package.

Large cigars of more than one class may be put up in a single package, provided that the quantity of cigars in each class, information identifying by shape, style, or brand name, etc., the particular cigars in each class, the class of cigars, and a class designation reflecting the number of cigars of each class contained in the package are adequately shown on the package. (Sec. 5701 (b), IRC (1954), and 26 CFR 270.214) (Supersedes Rev. Rul. 60-109)

Rev. Rul. 64-14  
I. R. B. 1964-3, 10

\* Use of paper as a binder for large cigars.

Use of paper as a binder in the manufacture of cigars does not cause the finished product to be classified as a cigarette and subject to the rate of tax imposed on cigarettes, provided the wrapper of the product is tobacco. (Sec. 5702 (b), IRC (1954), and 26 CFR 270.11) (Supersedes Rev. Rul. 58-553)

Rev. Rul. 64-15  
I. R. B. 1964-3, 11

\* Exporter must qualify as a dealer in tobacco materials when shipments are consigned to him.

An exporter of tobacco materials who has shipments consigned to him and who handles the tobacco to the extent of arranging export transportation and delivery to the proper port of exportation must qualify as a dealer in tobacco materials. An exporter who has shipments consigned by the supplier directly to the purchaser or consignee in the foreign country, and the shipments are made by the supplier directly to the export vessel or other export carrier, is not required to qualify as a dealer in tobacco materials. (Sec. 5702, IRC (1954), and 26 CFR 280.16) (Supersedes Rev. Rul. 56-149)

Rev. Rul. 64-16  
I. R. B. 1964-3, 11

\* Removal of tax-exempt tobacco products for foreign diplomatic officers in the United States not authorized.

Domestic tobacco products may not be removed from the factory, without payment of tax, for sale or delivery to diplomatic officers of foreign countries or to personnel of foreign embassies for consumption in the United States. (Sec. 5703, IRC (1954) and 26 CFR 270.26) (Supersedes Rev. Rul. 54-371)

Rev. Rul. 64-17  
I. R. B. 1964-3, 14

\* Restriction upon removal of tax-exempt tobacco products for use of the United States.

Tobacco products may not be removed exempt from tax for delivery to military and naval bases and establishments in this country for distribution to officers and enlisted personnel at special and holiday dinners or recreational activities, when the products are purchased with funds derived from donations by officers and enlisted personnel to club or camp funds or from profits from post or base exchanges. (Sec. 5704, IRC (1954), and 26 CFR 295.31) (Supersedes Rev. Rul. 54-69)

Rev. Rul. 64-18  
I. R. B. 1964-3, 12

\* Tobacco products furnished by manufacturers, without payment of tax, for employee off-factory consumption.

Tobacco products furnished by manufacturers of such products, without determination and payment of tax, for employees' off-factory personal consumption may not be accumulated and distributed to the employees on a weekly basis. Such tobacco products must be given to the employees on the day for which furnished and removed from the factory by the employee on that day. (Sec. 5704, IRC (1954), and 26 CFR 270.231) (Supersedes Rev. Rul. 61-44)

Rev. Rul. 64-19  
I. R. B. 1964-3, 13

\* Removal of tax-exempt tobacco products for "Radar Islands."

Tobacco products may be removed from domestic factories and export warehouses, without payment of tax, for delivery to vessels or aircraft of the Armed Forces for subsequent delivery to "Radar Islands" outside the three mile limit for consumption of the products by members of the Armed Forces of the United States. (Sec. 5704, IRC (1954), and 26 CFR 290.202) (Supersedes Rev. Rul. 55-671)

Rev. Rul. 64-20  
I. R. B. 1964-3, 15

\* Claim for refund of tax may be filed by  
successor corporation.

A corporation which acquires all of the capital stock of the manufacturing company which was thereafter dissolved is considered the "manufacturer" within the intent of Sec. 5705 (a), of the Internal Revenue Code and, as such, is entitled to file claim for refund of the tax on the tobacco products subsequently withdrawn from the market. (Sec. 5705 (a), IRC (1954), and 26 CFR 270.283) (Supersedes Rev. Rul. 57-121)

Rev. Rul. 64-21  
I. R. B. 1964-3, 16

A manufacturer of tobacco products may purchase cigarettes confiscated by State or local authorities and file claim for refund of tax.

Tobacco products confiscated by State, county, or other local or municipal authorities may be purchased by the manufacturer or importer thereof in order to claim refund of the tax paid on such products. After filing a schedule on Form 3069 for the tobacco products the manufacturer or importer may destroy such products, as authorized by the assistant regional commissioner (alcohol and tobacco tax), and file claim for refund of the tax. (Sec. 5705 (a), IRC (1954), and 26 CFR 270.283 and 275.163) (Supersedes Rev. Rul. 56-468)

Comment: Substantive change. Rewritten to eliminate redemption of stamps and to require the filing of a schedule with Assistant Regional Commissioner for withdrawal from market.

Rev. Rul. 64-22  
I. R. B. 1964-3, 17

\* Outer containers for packages of tobacco products.

Packages of tobacco products bearing the required mark and notice may be enclosed in outer containers which may be sealed. Internal Revenue officers are authorized to open such outer containers in the course of their inspection of tobacco products so packaged. (Sec. 5723, IRC (1954), and 26 CFR 270.211 and 275.71) (Supersedes Rev. Rul. 56-194)

Rev. Rul. 64-23  
I. R. B. 1964-3, 18

Mark and notice may appear on cellophane package or cellophane wrapper.

The required mark and notice may appear on a tobacco products package consisting of cellophane (or similar material). Also, such required mark and notice may appear on cellophane (or similar material) used to wrap a

tobacco products package where it is concluded, from the type of package and the practice of marketing such package at retail, that it will be delivered to the consumer with the wrapping intact. (Sec. 5723, IRC (1954), and 26 CFR 270.212, 270.213, 270.214, 270.215, 275.72, 275.73, 275.74, and 296.166) (Supersedes Rev. Rul. 54-274)

Comment: Substantive change from superseded ruling which dealt only with stamps.

Rev. Rul. 64-24

\* Use of complete permit number.

I. R. B. 1964-3, 19

The permit number of a manufacturer of tobacco products or proprietor of an export warehouse should be complete wherever used and should include (1) the letters TP or EW, as the case may be, (2) the number assigned by the assistant regional commissioner, alcohol and tobacco tax, and (3) the name of the State, or proper abbreviation thereof, in which the factory or export warehouse is located. (Secs. 5713 and 5723, IRC (1954), and 26 CFR 270.75, 270.212, 290.93, 290.184, and 295.42) (Supersedes Rev. Rul. 56-75)

Rev. Rul. 64-25

"Reconstituted tobacco" may be produced and handled by dealers in tobacco materials.

I. R. B. 1964-3, 22

Tobacco processed into rolls, sheets, bobbins, etc., for use in the manufacture of tobacco products may be produced and handled by dealers in tobacco materials. Such material should be accounted for as tobacco materials by weight in the records required to be kept by dealers in tobacco materials and manufacturers of tobacco products. (Secs. 5731 and 5741, IRC (1954), and 26 CFR 280.120, 280.127, and 270.182) (Supersedes Rev. Rul. 56-143)

Comment: Substantive change. Superseded ruling expanded to include all types of "reconstituted tobacco" materials for use in manufacture of tobacco products.

Rev. Rul. 64-26

Totals of manufactured tobacco may be increased or decreased to nearest pound to eliminate fractions of pounds in records.

I. R. B. 1964-3, 24

Daily totals of manufactured tobacco required to be entered in the records of a manufacturer of tobacco products may be increased or decreased to the nearest pound to eliminate fractions of pounds. However, the daily totals

by kind and quantity must be determined before fractions of pounds may be increased or decreased. (Sec. 5741, IRC (1954), and 26 CFR 270.183) (Supersedes Rev. Rul. 60-119)

Comment: Substantive change. Superseded ruling related to supporting record of removals.

Rev. Rul. 64-27                      Restriction upon blending of manufactured  
I. R. B. 1964-3, 24              tobacco by retail dealers.

A retail dealer in tobacco products may blend and repackage or merely repackage taxpaid manufactured tobacco for "over-the-counter" delivery to waiting customers without qualifying as a manufacturer of tobacco products; however, if for other than "over-the-counter" delivery to waiting customers he must qualify as a manufacturer of tobacco products. (Secs. 5723 and 5751, IRC (1954), and 26 CFR 270.211, 270.212, 270.213, 275.71, 275.72, and 296.166) (Supersedes Rev. Rul. 55-550)

Comment: Substantive change from superseded ruling which did not include repackaging.

Rev. Rul. 64-28                      Restriction upon removal of tobacco products  
I. R. B. 1964-3, 25              from packages by dealers.

A dealer in tobacco products (wholesale or retail) may not remove cigars, cigarettes, or manufactured tobacco from the required packages (as put up by the manufacturer or importer), for transmission by mail, express, or other similar method to prospective customers, either as free samples to solicit trade or for sale. (Secs. 5723 and 5751, IRC (1954), and 26 CFR 270.211, 270.212, 270.213, 270.214, 270.215, 275.71, 275.72, 275.73, 275.74, 275.75, and 296.166) (Supersedes Rev. Rul. 56-667)

Comment: Substantive change. Modified to cover wholesale and retail dealers and to provide that products may not be removed from required packages.

Rev. Proc. 59-2                      \*\* Date of withdrawal of tobacco products  
C. B. 1959-1, 800              from the market to be shown in claims.

The date of withdrawal of tobacco products from the market may be shown in claims as the date such products were received on the factory premises or were voluntarily destroyed at other than such premises; or in lieu of such dates, the claimant may certify (under penalties of perjury) that the products were so received or destroyed, within 6 months prior to the date the claim is filed. (Sec. 5705 (c), IRC (1954)) (Currently interpretive of 26 CFR 270.283 and 275.163)

Rev. Proc. 60-32  
C. B. 1960-2, 1011

\*\* Exportation of tax-exempt tobacco products by truck to U. S. Armed Forces in a contiguous foreign country.

When tax-exempt tobacco products are to be exported by truck to the United States Armed Forces in a contiguous foreign country, the Certificate of Exportation on the reverse of the Notice of Removal, Form 2149 or 2150, must be modified so that the Inspector of Customs at the port of exit may certify to the exportation. (Sec. 5704, IRC (1954), and 26 CFR 290.205 and 290.261)

Rev. Proc. 62-5  
C. B. 1962-1, 426

\*\* Notice on packages of cigars.

The word "cigars" must appear separately on a package of large cigars from that appearing in the class designation. It may appear in connection with a brand name, such as "Perfect cigars," the quantity statement, such as "25 cigars," or a slogan such as "finest quality cigars." Descriptive words such as "cigarillos," "cheroots," "blunts," "panetelas," etc., are not considered as a substitute for the word "cigars." (Sec. 5723, IRC (1954), and 26 CFR 270.214 and 275.73)

Rev. Proc. 62-6  
C. B. 1962-1, 427

\*\* Identification of manufacturer on packages of tobacco products.

Where a manufacturer of tobacco products makes transfers in bond between factories of the same ownership and does not wish to mark the packages with his name and the location of his factory from which the products are to be removed subject to tax or the permit number of his factory from which the tobacco products are to be so removed, he may state his name and identify the factory of production by imprinting an approved symbol on the closure, if any, or on the package at the time it passes through the packaging machine, or by an approved statement imprinted directly on the package, on the closure, if any, or on a label affixed to the package. (Sec. 5723, IRC (1954), and 26 CFR 270.212)

Rev. Proc. 62-11  
C. B. 1962-1, 440

\*\* Procedure for submission and handling of offers in compromise.

Civil and criminal liabilities with respect to tobacco products and cigarette papers and tubes and liability with respect to the administrative forfeiture of personal property seized in connection with tobacco violations may be



compromised by the filing of an offer in compromise with the District Director or an Alcohol and Tobacco Tax officer. Offers should be submitted in triplicate on Form 656, Offer in Compromise, properly executed, and should generally be accompanied by remittance representing the amount of the offer or a deposit if the offer provides for future installment payments. (Sec. 7122, IRC (1954))

Rev. Proc. 62-22  
C. B. 1962-2, 486

\*\* Shipments to replace tobacco products lost, damaged, or destroyed in transit for exportation.

When tax-exempt tobacco products are removed from the factory to replace tobacco products lost, damaged, or destroyed in transit for exportation a Form 2149 should be prepared in accordance with the regulations in 26 CFR Part 290. The form should be prepared in duplicate and should contain a statement to the effect that the products listed thereon were removed from the factory to replace products removed under Form 2149 serial no. \_\_\_\_\_. One copy of the form should be retained by the manufacturer and the other copy forwarded to the assistant regional commissioner (alcohol and tobacco tax). (Sec. 5704, IRC (1954), and 26 CFR 290.198)

Rev. Proc. 63-13  
C. B. 1963-1, 501

\*\* Recording and reporting tobacco products removed subject to tax.

Manufacturers of tobacco products must enter in their records and reports the total quantity of tobacco products removed subject to tax, reflect such quantity in the tax return for the period in which the removals occurred, and pay the full amount of tax (except for authorized adjustments). In no case may the manufacturer, in his reports and tax returns, reduce the quantity of products actually removed subject to tax by the quantity of tax determined products returned to the factory. (Secs. 5703, 5705, and 5741, IRC (1954), and 26 CFR 270.162, 270.183, 270.184, 270.202, 270.282, and 270.283)

Rev. Proc. 63-16  
C. B. 1963-1, 504

\*\* Tobacco products withdrawn from the market.

Where a manufacturer withdraws tobacco products from the market and the schedule, Form 3069, is to be executed in his behalf by an employee not otherwise authorized to sign documents filed with the assistant regional

commissioner (alcohol and tobacco tax), the manufacturer is responsible for filing a Power of Attorney, Form 1534, authorizing such person to act. (Sec. 5705, IRC (1954), and 26 CFR 270.283 and 270.311)

Rev. Proc. 64-5  
I. R. B. 1964-3, 27

Submission of "reconstituted tobacco" samples for official tax determination of product on which such material is used as a wrapper.

Where "reconstituted tobacco" is to be used as a wrapper for rolls of tobacco the manufacturer should, prior to marketing the product, submit samples of such material, the finished product, and the proposed design of the package to the Director, Alcohol and Tobacco Tax Division, for an official determination of the rate of tax applicable to the product. (Sec. 5702, IRC (1954), and 26 CFR 270.11) (Supersedes Rev. Procs. 59-10 and 59-15)

Comment: Substantive change. Two Revenue Procedures combined and manufacturer required to show mark and notice, including class designation, on proposed package to be submitted to Director.

Rev. Proc. 64-6  
I. R. B. 1964-3, 28

\* Transferee manufacturer should be identified in the required mark on packages of tobacco products transferred in bond.

Packages containing tobacco products produced by one manufacturer and transferred in bond to another manufacturer of such products should, in the required mark, identify the transferee manufacturer by name and location, or by permit number. (Sec. 5704 (b) and 5723, IRC (1954), and 26 CFR 270.211, 270.212, and 270.233) (Supersedes Rev. Proc. 59-8)

Rev. Proc. 64-7  
I. R. B. 1964-3, 28

\* Recording and reporting overages and shortages of large cigars.

Manufacturers of large cigars should enter in their records all overages and shortages of cigars disclosed by physical inventory. The net overage or net shortage during any month should be reported on Form 3068, Monthly Report -- Manufacturer of Tobacco Products, submitted for that month. (Secs. 5722 and 5741, IRC (1954), and 26 CFR 270.183 and 270.202) (Supersedes Rev. Proc. 60-7)

Rev. Proc. 64-8  
I. R. B. 1964-3, 29

\* Accounting for tobacco materials in process of production into manufactured tobacco in revenue records of manufacturers of tobacco products.

Tobacco materials in the process of production into manufactured tobacco should be shown in the revenue records as tobacco materials under the classification of "Other tobacco materials." Manufacturers should regard all such tobacco (other than plug or twist) as tobacco materials, until it is packaged for removal, furnished to employees for personal consumption or use, or removed for sale, consumption, or use. (Sec. 5741, IRC (1954), and 26 CFR 270.182) (Supersedes Rev. Proc. 57-34)

Rev. Proc. 64-9  
I. R. B. 1964-3, 29

Supporting record of tobacco products removed subject to tax.

A manufacturer of tobacco products may keep invoices or other commercial records as his record in support of removals subject to tax if the classes of cigars removed can be readily determined even though such records do not show specifically the class. Where tobacco products are removed to a retail store at the same location the manufacturer may show the products "Removed to retail store at factory." (Sec. 5741, IRC (1954), and 26 CFR 270.184) (Supersedes Rev. Proc. 56-32)

Comment: Substantive change. Superseded ruling expanded to include all tobacco products and to treat removals to a retail store at the factory.

\* No substantive change

\*\* Unchanged